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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,531	12/02/2004	Roger S. Levy	P70292US0	6996
136	7590	08/15/2006	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			TRUONG, THANH K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/516,531

Applicant(s)

LEVY, ROGER S.

Examiner

Thanh K. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on June 5, 2006.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the entrance" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the entrance" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerard Joulin (1,568,220).

Gerard Joulin discloses (figures 1-5) an apparatus comprising: a machine for continuous packing in a modified atmosphere of food products and a conveyor (12) for continuous sequential feeding of food products to the machine, wherein means, at the entrance of the machine, submit the product fed by the conveyor to vacuum before it is packed in modified atmosphere in the machine (page 2, lines 17-22; lines 50-56; lines 89-93; lines 102-109 and page 3, lines 4-10).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerard Joulin (1,568,220) in view of Kawaguchi et al. (4,640,081).

As discussed above in paragraph 5 of this office action, Gerard Joulin discloses the claimed invention, but it does not expressly disclose the means that temporarily submit the food product to vacuum comprising a bell connected to means for suction of air from inside the bell that is supported and moves synchronous along the transport section of the conveyor.

Kawaguchi et al. discloses an apparatus comprising: bell (15) wherein the bell is supported by movement means (M2 – the carousel in figure 6) for synchronous

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movement along a transport section of a conveyor to enclose a product under the bell and submit the product to vacuum means (as in claims 2 and 9).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Gerard Joulin such that to include the bell that support by the carousel as taught by Kawaguchi et al. to provide a high speed automatic packaging machine.

The modified Gerard Joulin by Kawaguchi et al. further discloses:

the carousel transporting the bell (15) along a closed section that comprises the transport section of the conveyor and means (14, 33, 36) of controlled lowering of the bell onto the conveyor (Kawaguchi – Fig. 9) (as in claims 3 and 10);

the controlled lowering means comprise a support (33) of the bell that can be vertically lowered against the action of the elastic means (23, 27) keeping the bell in a raised position and actuator means (30a, 34, 36, 40) positioned along the transport section to push the bell towards the conveyor against the action of the elastic means (Kawaguchi – Fig. 9) (as in claims 4 and 11);

the actuator means comprise a lowering cam yoke (36) of the support bell (Kawaguchi – Fig. 9) (as in claims 5 and 12);

a plurality of bell to act simultaneously on several products moved sequentially along the transport section (Kawaguchi – Fig. 6) (as in claims 6 and 13);

the suction (46 – kawaguchi) and input means are supported by the carousel to be moved together with the bell (as in claims 7 and 14);

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the continuous packing machine in modified atmosphere is the type comprising a roll of plastic film (R) and means that unroll, conform into a tube and weld the film to create packs sequentially around products fed to it (Kawaguchi – Figs. 1 & 2) (as in claim 8);

the suction and input means comprise a pump (not shown – kawaguchi, column 7, lines 24-25) for each bell (as in claim 15); and

the counter-bells (13) connected to means for suction of air from inside them and which are mobile, to be positioned in front of the bells and in contact with the other face of the transport surface of the conveyor, in the sense that vacuum is created that balances the action of vacuum of the bells on the conveyor (Kawaguchi – Fig. 9) (as in claim 16).

Response to Arguments

8. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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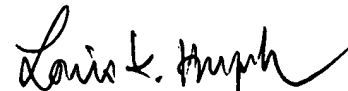
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkl
August 10, 2006.


LOUIS K. HUYNH
PRIMARY EXAMINER